CITY OF KINGMAN
ARIZONA

STREETS AND SIDEWALKS

DEVELOPMENT RULES AND REGULATIONS

Reprinted
JULY 2002

CITY OF KINGMAN, ARIZONA

STREETS AND SIDEWALKS DEVELOPMENT RULES AND REGULATIONS

CITY OF KINGMAN STREETS AND SIDEWALKS
DEVELOPMENT RULES AND REGULATIONS

DIVISION 1. GENERALLY

Sec. 1-1. Policy Statement.

It will be the policy of the City of Kingman to improve and maintain streets within the City to a condition that allows for the safe movement of pedestrian, bicycle, and vehicular traffic. The development or opening of any street by private developers shall be approved by the City only upon satisfactory demonstration that the development or opening will meet the street development standards and specifications adopted by the City Council, that proper engineering and safety standards have been addressed, and that provisions for drainage are in accordance with the Kingman Area Master Drainage Plan Design and Administrative Manual.

The City Council also recognizes that infill development on dirt/graveled streets can increase particulates in the air, creating an undesirable air quality condition. The Council encourages the residences in these neighborhoods to work with the City in getting these streets paved in the most cost effective process through the formation of an improvement district, or where appropriate through the use of the "Low Cost Maintenance Paving Program".

Sec. 1-2. Street Classifications and Definitions.

(a) MAJOR ARTERIAL: A continuous street tying together two or more traffic generating areas (or portions of such as officially projected streets) used primarily for through movement of traffic between separate areas and to collect and distribute all traffic the destination of which lies either in between said areas, or at any terminal served by the road.

(b) MINOR ARTERIAL: A principal traffic artery tying together residential and commercial areas, carrying relatively high traffic volumes, and conveying traffic from Major Arterial streets to lower order streets. Its function is to promote the free flow of traffic. The secondary function of a Minor Arterial is to serve abutting land uses.

(c) COLLECTOR: A connecting street between two arterial streets. The Collector provides passage to local streets and conveys traffic to arterials. A Collector provides frontage and access to residential lots but also carries some through

traffic to lower-order streets.

(d) LOCAL: A Local street is designed to provide access to properties and to conduct traffic between dwelling units and higher order-streets. As the lowest-order street in the hierarchy, a Local street usually carries no through traffic and includes short terminated streets ending .in tee intersections, cul-de-sacs, and courts.

(e) RURAL: A Local or Collector street within a subdivision or area where all lots or parcels are 40,000 square feet or larger in area. The use of Rural street standards shall be limited to streets or portions thereof that do not require curb and gutter improvements in connection with storm runoff and where the street does not serve other traffic generators (i.e., other subdivisions, housing developments, and/or commercial areas). Collector streets within a subdivision or area having lots or parcels of 40,000 square feet or larger in area, may be required to be developed in accordance with the Collector street standards if the projected A.D.T. exceeds 2,000. In determining whether curb and gutter improvements and/or Collector street standards shall apply, the design engineer shall include supportive information for drainage and traffic projections to the City Engineer as part of the submittal and review process.

Further definitions and explanations of streets and their classifications are found in Section 4.6 of the City of Kingman Subdivision Ordinance, Section 1-4 and Table Two of this Article.

Sec. 1-3. Public Right-of-way maintenance and repairs.

(a) Supervision. All maintenance and repairs of public streets, alleys, and other public ways shall be under the supervision of the Public Works Director. He/she shall be charged with the enforcement of all ordinance provisions relating to such public places (except traffic ordinances) and is hereby authorized to enforce such ordinances.

(b) Roadway Maintenance. Shall include overlaying, seal coating, patching, and sweeping existing paved streets; and blading or shaping existing dirt streets and shoulders.

(c) Right-of-Way Maintenance. Except for the repair or replacement of concrete sidewalk and curb or gutter

at developed properties, all public right-of-way-situated between the existing curb and gutter, sidewalk, or pavement edge and the property line shall be maintained by the adjacent property owner. Such maintenance shall include, but may not be limited to, weeding, mowing, sweeping, raking and general clean-up of the area. Public and private utilities will be responsible for the replacement and repair of landscaping materials specifically-damaged by their construction in the public right-of-way. However, unless otherwise specified, the continuing maintenance of landscaping in the public right-of-way is the responsibility of the adjacent property owner. See Section 10.000 of the Kingman Zoning Ordinance. Owners of undeveloped properties shall be responsible for protecting concrete curb and . sidewalk from damage associated with development activities. All damaged curb and sidewalk shall be replaced at the expense of the property owner. The Public Works Director shall have authority to require adjacent property owners to clean such, area by serving a written notice on the owner or his agent or upon the occupant of such property. Failure to comply with such notice within twenty (20) days thereafter, shall be a misdemeanor.

(This section was amended by Ord. 1137 passed 10/06/97 and Ord. 1179 passed 07/20/98)

Sec. 1-4. Construction/Reconstruction of streets.

The Kingman Area Transportation Study (KATS) of 1987 will serve as the primary tool for programming major street construction and reconstruction projects. Supplemental engineering studies, maintenance records, traffic counts and traffic projections may also be used in the programming of street construction and reconstruction projects.

(a) MAJOR AND MINOR ARTERIALS (KATS refers to these as Primary Arterial) . The programming of the construction and reconstruction of arterials shall be the responsibility of the Public Works Department. Funding for such projects may be derived from local improvement districts, City revenues, Highway User Funds, Lottery Funds, State and/or Federal grants, and/or bond issues. Exceptions to this rule may be required for certain subdividing and land development programs, whereby the Common Council may determine that a development cannot be approved unless the developer improves or participates in the improvement of the arterial. (See Sec. 4.6(1) of the City Subdivision Ordinance

and Sec. 1-5 of this Article).

(b) COLLECTOR STREETS (KATS - Collector). The construction of collector streets to or in a new subdivision, shall be the responsibility of the developer. Construction of collector streets in existing subdivisions shall be the responsibility of the property owners and may be financed by either cash, an improvement district, an assessment district, a bond issue, or when available with State and Federal Grant monies. Reconstruction of collector streets may be financed by either City funds, grants, improvement district or bond issue.

(c) LOCAL AND RURAL STREETS. The construction of local and rural streets in new subdivisions shall be the responsibility of the developer. Construction of such streets in existing subdivisions or in unsubdivided areas shall be the responsibility of the property owners and may be financed by cash or through the formation of an improvement district, assessment district, or through the use of the City's Low Cost Maintenance Paving Program as described below. When available State and Federal grants may also be used to construct these types of streets.

(d) HALF WIDTH STREETS. In cases where a developer only controls property on one side of the street right-of-way, street improvements for one half the width plus eight feet of additional paving shall be required, in accordance with the Table One..

(a) GRADED ACCESS. In existing subdivisions, where a dedicated roadway has not been opened and developed, it shall be the responsibility of the developer or lot owner(s) to have the roadway opened at such time that development occurs. Engineering plans for the opening of the roadway shall be provided to the City Engineer for review and approval, prior to the construction. Said plans shall be in accordance with the design standards called out in Section 4.6 of the City Subdivision Ordinance and the Kingman Area Master Drainage Plan Design and Administrative Manual, and shall include grading, shaping, and placement of four inches of AB gravel.

(f) LOW COST MAINTENANCE PAVING PROGRAM. To provide a procedure for local residents in existing residential subdivisions or developed areas that are serviced by graded access, a Low Cost

TABLE ONE
MINIMUM ROADWAY CROSS-SECTION FOR HALF STREETS

STREET CLASSIFICATION	MAJOR ARTERIAL	MINOR ARTERIAL	COLLECTOR	LOCAL	RURAL
RIGHT-OF-WAY WIDTH	100 FEET	84 FEET	60 FEET	50 FEET	60 FEET
DISTANCE FROM BACK OF SIDEWALK TO PROPERTY LINE	12'5"	4'5"	5'5"	4'5"	
SIDEWALK WIDTH	5 FEET	5 FEET	4 FEET	4 FEET	4 FEET
CURB WIDTH PER MAG STANDARD DETAIL NUMBER 220	7 INCHES	7 INCHES	7 INCHES	7 INCHES	7 INCHES (where required)
ROADWAY WIDTH PER MAG STANDARD DETAIL NUMBER 20	32 FEET	32 FEET	20 FEET	16 FEET	
ADDITIONAL WIDTH OF PAVEMENT (WITH TERMINATION SEC. PER MAG STANDARD DETAIL NO. 201, TYPE B	NA	NA	8 FEET	8 FEET	8 FEET
DISTANCE FROM PAVEMENT EDGE TO PROPERTY LINE	50 FEET	42 FEET	22 FEET	17 FEET	VARIES
CURB AND GUTTER WIDTH	2 FEET	2 FEET	2 FEET	2 FEET	2 FEET (where required)

Maintenance Paving Program may be utilized. The criteria and standards for this program are as follows:

SCOPE OF PROGRAM;

Eligible Street Classification	Local
Pavement Width:	24 ft. to 32 ft.
Pavement Depth:	2 inches
Pavement Type:	Asphalt - Cold or Hot Mix
Curb and Gutter:	Not required
Base Material:	ABC - Placed by City as required
Drainage:	Drain to shoulder Minimal flows (accepts and discharges drainage of local area only)
Grade	Graded to drain only, along natural grade

PROCEDURE:

1. City notifies the general public of receipt of applications from interested property owners (fall months).

2. City accepts applications from residential areas that have:

   a. Evidence that at least 80% of the property owners adjacent to the street to be paved are willing to subscribe to the program.

   b. The property owners have someone from the neighborhood to act as liaison between the City and property owners.

3. City reviews applications for eligibility based on:

   a. Traffic volume.

   b. Access to paved roadway(s).

   c. Adequacy of drainage.

   d. Need.

   e. Adequacy of existing base material.

f. Utilities already in place.

g. Availability of City resources.

4. Eligible projects will be selected and processed in accordance with the following:

a. Estimate made of cost of labor and materials for force account project by City crews.

b. Cost estimates apportioned to adjacent properties by multiplying number of linear feet of frontage of each property which fronts on the improvement by the cost per front foot.

c. Property owners notified of their costs by liaison person.

d. Total payments collected and placed on deposit with the City prior to July 1.

e. Residents who cannot pay proportionate share immediately may be allowed to pay an established monthly amount with interest for a 12 month period.

f. After total payments have been collected, ''project is scheduled for construction during summer, early fall months.

SUMMARY;

1. The Low Cost Maintenance Paving Program is completely voluntary.

2. Only projects that have 100% cost participation from affected property owners will be built.

3. Nothing will be started which cannot be completed by October 31st of each year.

4. Projects will be prioritized on a first come - first served basis.

Sec. 1-5. Street plans.

Street plans are to conform to the layout of an approved preliminary subdivision plan, a previously recorded plat or to recorded right-of-way documents, and the street design criteria in this Article. *

No new subdivision shall be approved unless the area to be

subdivided has permanent access from a paved Federal, State, County or City highway or street which has been or will be improved to standards acceptable to the Common Council. If the subdivision is not contiguous to such a roadway, or the roadway has not been improved to standards acceptable to the Common Council, the developer shall be required to obtain right-of-way and construct an access road to such roadway or subdivision, in accordance with the City Standards and Specifications. In no event shall minimum standards be less than those applicable to Rural or Collector streets, as appropriate.

Sec. 1-5.1. Plan presentation.

Plans, profiles and typical cross-sections are required which contain the following minimum information:

(a) Plans.

(1) Street names.

(2) Lateral dimensions of streets and rights-of-way, including pertinent survey data and curb return data.

(3) Location of existing and proposed utilities being designed and existing streets to be joined.

(4) Drainage structures, including cross gutters, culverts, catch basins, or similar items. Show a positive outlet for all drainage and include effects of drainage on the downstream property in the drainage report.

(5) Curb, gutter, sidewalks, and asphalt structures.

(6) Survey monument locations to be set; and/or existing control monuments to be referenced prior to destruction; and City bench marks used.

(7) New traffic control devices, all existing traffic control devices within the area of the project, and changes in traffic control devices in the vicinity of the project which are required as a result of the project.

(8) Distinguish between existing and proposed facilities.

(9) The top and toe of slope for both cuts and fills shall be shown if the project extends outside of the right-of-way limits.

(10) Additional information needed to clarify plans or deal with specific conditions.

(b) Profiles.

(1) Bench marks, including description, location and elevation.

(2) Existing and finished grade profiles. Profiles of center line and right and left gutter control line or edge of pavement are required. The presentation must clearly show and distinguish existing profiles and other profile information.

(3) Finished elevations, including BVC, PI, and EVC of vertical curves, intersection points, and all other points needed for vertical control of construction.

(4) Slopes and vertical curve lengths.

(5) Curb return profiles at intersections.

(6) Drainage structures and utilities.

(7) Extension of the improvement project as required to insure that design is compatible with future extension.

(8) Consistent stationing throughout the plans..

(9) Additional information needed to clarify profiles or deal with special conditions, i.e., profile of drainage channels, stationing and elevations at beginning and end of all curb returns, grade breaks, and beginning and end of construction.

(c) Cross-Sections.

(1) Typical cross-sections. A typical cross-section is needed for each condition encountered and each should be clearly identified as to where it applies.

(2) Materials and thickness, including select material, aggregate base, prime coat, asphaltic concrete, seal coat, curb and gutter, and sidewalk, with notation of the engineering firm preparing the soils reports and the report numbers, if applicable. The specification and types of materials shall be stated.

(3) Horizontal dimensions to all key points, including

rights-of-way.

(4) Cross slopes.

(5) Parkway conditions. Maximum and minimum slopes are to be shown for cuts, fills, and side hill conditions. Any side ditches or other special conditions are to be shown.

(6) Shall show right-of-way widths, relation to centerline, and shall identify by name the street to which it is applicable.

(7) Identify limits of applicability by station -if necessary.

(8) Shall show typical location of traffic signals, signs, street lights, fire hydrants, etc.

(d) Paving Notes. The following notes are to appear on Paving Plan.

(1) Exact point of matching termination and overlay, if necessary, shall be determined in the field by the City Engineer or his/her authorized representative.

(2) The paving contractor shall be responsible for the adjustment and placement of concrete collars, frames, covers, and valve boxes as necessary for a complete job as approved by the City Engineer.

(3) No paving construction shall be started until all utility lines are completed under proposed paved areas.

(4) Base course shall not be placed until subgrade has been approved by the City Engineer.

(5) No job will be considered completed until, curbs, pavements and sidewalks have been swept clean of all dirt and debris; and survey monuments are installed.

(6) The location of all water valves, fire hydrants, and manholes must at all times during construction be referenced by the contractor and made available to the City.

(7) Utility facilities in conflict with this work shall be relocated by the developer. This activity shall be coordinated with the owner of the utility to prevent any unnecessary interruption of service.

(8) Existing street and traffic signs will be maintained during construction and relocated by the contractor as directed by the Public Works Director.

Sec. 1-6. Dead end streets.

(a) No dead end street of a permanent nature shall be longer than 600 feet. The street shall terminate with a circular right-of-way radius of 50 feet minimum if no utilities are located within-the right-of-way, or 55 feet minimum if utilities are located within the right-of-way. In both cases a 40 foot radius (to back of curb or edge of pavement) improved traffic turning circle shall be provided. If the "dead end" is of a temporary nature, the street shall terminate at a paved temporary turn-around. If the street is paved, then those structures deemed necessary by the City Engineer to provide adequate service and drainage are required. Any dead end street with no more than one lot on each side need not have a turn-around but must have barricades at the end of the street.

Sec. 1-7. Street intersection.

(a) All intersections of one or more arterial streets shall be joined so that a minimum distance of 100 feet measured from the centerline intersection is at right angles to the street it joins.

(b) All intersections not involving arterial streets shall have a minimum intersecting angle of 75 degrees except where two Collector or Local streets intersect, then a minimum angle is 60 degrees.

(c) All curb return radii shall be as shown in Table Two except on a short cul-de-sac, then it is 30 feet.

(d) Minimum distance between centerlines of adjacent intersections shall be 200 feet.

(e) Location of traffic control devices shall be provided with construction plans, and shall be in conformance with the guidelines of the Federal Highway Administration Manual of Uniform Traffic Control Devices (M.U.T.C.D). The location and type of traffic control devices shall be reviewed and approved by the City's Traffic Safety Committee. The Traffic Safety Committee shall be made up of the Public Works Director, Street Superintendent, Chief of Police, City Engineer, City Planning Director, and City Risk Management Director, or their designated agents. Materials and labor for all street names,

regulatory and traffic control signs in new subdivision and developments shall be paid for by the developer. Installation shall be by the Public Works Department.
(amended by Ord. 1046, adopted 06/05/95)

(f) Intersection monuments shall be placed at the centerline intersection of all intersections. (Consult City of Kingman Specification No. 400.)

(g) Additional right-of-way may be required when turning lanes are needed at intersections on arterial and collector streets.

Sec. 1-8. Horizontal alignment.

Alignment shall be arranged so as to discourage through traffic on local streets. It shall also provide for through traffic around residential districts. Street alignment shall provide adequate access for police, fire protection, and sanitation vehicles, and for road maintenance equipment. The alignment shall provide for the continuation of principal streets to adjoining properties which are not yet developed. When topographic or other considerations make such continuance undesirable or impractical, these requirements may be modified with the approval of the City Engineer. In either case, the access needs of the adjacent developed and undeveloped land must be addressed.

Sec. 1-9. Other design considerations include the following:

(a) If the centerline deflects more than 2 degrees, the tangents shall be connected by a 150-foot minimum radius curve for Local streets, and a 300-foot minimum radius curve for Collector streets. Major and Minor Arterial streets shall be dealt with on an individual basis, but in no case shall they have less than 450 foot radius for any centerline deflection.

(b) There shall be a minimum tangent length of 100 feet between reverse curves.

(c) The curve data shown on the plans shall include delta, radius, length of arc, tangent and chord.

(d) Survey monument installation shall be indicated on the plans. Appropriate places are street intersections, P.C.'s, P.I.'s, P.T.'s, section corners, sixteenth corners, and subdivision corners if applicable in the streets. (Consult City of Kingman Specification No. 400.)

(e) Vertical Alignment: The street plan shall bear a logical relationship to the topography of the property. Streets shall be designed to allow most of the building sites to

be at or above the grade of the adjacent streets. Vertical alignments shall be controlled to assure that the street grades can be negotiated in adverse weather conditions and that sight distances are adequate for safety. Sufficient data must be given on each curb line or edge of paving and on the crown of paving so that the elevation of any point may be mathematically calculated. Grades or slopes on curved streets should be computed and recorded for the true length of curbing as measured at the back of curb.

(f) Grades: Maximum grade for any street varies from 12-16% depending on street type (see Table Two) . Minimum flow line tangent grades should be 0.4%. The grades of all streets shall be kept as low as possible, bearing in mind the advantageous development of the property, but in no case shall a street having a grade of more that 12% exceed 500 feet in length.

(g) Vertical Curves: All straight grades which deflect by more than 1% must be joined by a parabolic vertical curve. The length shall be determined using the current AASHTO Green Book Guidelines with the minimum length of 100 feet. Vertical curve data recorded shall include the length of curve, P.I. station elevation, and correction factor or finished grade at the mid-point of the curve.

(h) Curb Returns: Sufficient data should be given which will include curb elevations at 1/2 delta, with 1/4 delta preferred, around the return, tangent slopes, P.C. and P.T. elevations, etc.

(i) Bench Mark: Permanent bench marks shall be established on projects that have no bench mark in the immediate area. City of Kingman datum shall be used. (Consult City Specification No. 400)

Sec. 1-10. Cross Section.

Before final review by the City Engineer, the need for and composition of the base course beneath asphaltic concrete paving shall be submitted in writing by a professional engineer specializing in soils engineering, based upon an adequate number of soil samples, if the design engineer chooses not to use the minimum section called out in Table Two. Pavement structure should also be based on estimated traffic conditions and a twenty year design life. All street plans shall show the firm preparing the soils report and date of soils report and file number, if applicable.

Standard minimum street sections are shown in Table Two.

TABLE TWO
DESIGN CRITERIA

FUNCTIONAL CLASS	MAJOR ARTERIAL	MINOR ARTERIAL	COLLECTOR	LOCAL	RURAL
MIN. RIGHT-OF-WAY WIDTH	100 FEET see note 6	84 FEET see note 6	60 FEET see note 6	50 FT. see note 6	60 FT. see note 6
ROADWAY WIDTH (TO FACE OF CURB)	64 FEET	64 FEET	40 FEET	32 FT.	26 FT.
EDGE TREATMENT	VERT. CURB	VERT. CURB	VERT. OR ROLLED CURB	VERT. OR ROLLED CURB	6' MIN. SHOULDERS PLUS DRAINAGE SWALES CURB IF REQUIRED
RADIUS-CURB RETURN	30 FEET MIN.	30 FEET MIN.	20 FEET MIN.	20 FEET MIN.	20 FT. MIN. see note 8
RIGHT-OF-WAY RADIUS see note 11	25 FEET see note 5	25 FEET see note 5	20 FEET see note 5	20 FEET see note 5	20 FEET see notes 5 & 8
MINIMUM CENTER LINE HORIZONTAL CURVE RADIUS	450 FEET	450 FEET	300 FEET	150 FEET	150 TO 300 FEET see note 8
MINIMUM DESIGN SPEED	45 MPH	40 MPH	35 MPH	NA	NA see note 8
MAXIMUM GRADE	12%	12%	16%	16%	16% see note 8
MINIMUM A.C. DEPTH	PER SOILS INVESTIGATION	PER SOILS INVESTIGATION	2 INCHES	2 INCHES	2 TO 3 INCHES see note 8
MINIMUM A.B.C. DEPTH	PER SOILS INVESTIGATION	PER SOILS INVESTIGATION	6 INCHES	6 INCHES	6 INCHES
EXPECTED A.D.T	7500+	1000-6000	400-1000	500	500-2000
PARKING CONDITIONS	NO PARKING	RESTRICTED	ALLOWED	ALLOWED	RESTRICTED
STREET PURPOSE	MOBILITY	MOBILITY & ACCESS	ACCESS & MOBILITY	ACCESS	ACCESS & MOBILITY

TABLE TWO
NOTES

NOTE 1. A.D.T, is average daily traffic.

NOTE 2. Expected A.D.T, is based on the total developable area. Densities of population shall be determined from the General Plan, Area Plan, and/or Zoning Regulations.

NOTE 3. Drainage facilities may require additional right-of-way and/or slope easements.

NOTE 4. When urban development expands adjacent to a rural street section, that street shall be designed and built to urban standards.

NOTE 5. At the intersection of two streets of different classifications, the corner cut-off dimension and curb return radius of the wider street shall be used.

NOTE 6. Right-of-way width may have to be increased in areas to allow the installation of suitable sidewalks, drainage structures, turn lanes, and other necessary offsite improvements. In addition the functional classification and geographic location of the roadway may dictate additional right-of-way width. The 1997 Kingman Area Transportation Plan identifies a 130/ right-of-way width for Principal/Major Arterial where 6 lanes of traffic are projected; Major-Arterial (typical section line road - 4 lanes), 100 foot right-of-way width; Major Arterial (two lanes) with a 70 foot right-of-way width;- Minor Arterial/Collector (typical mid-section line road - two lanes) with a 70 foot right-of-way width. (This Note amended by Ord. 1179 adopted 07/20/98)

NOTE 7. Street width is measured from the back of curbs for urban sections, and pavement edges for rural sections.

NOTE 8. Rural roadways may be considered in lieu of local and collector streets only, with applicable urban design criteria.

NOTE 9. When development occurs on one side of the street (where both sides of the street can be developed), minimum limits - of roadway construction shall be per Section 1-4. (d) for half streets. (This Note amended by Ord. 1235)

NOTE 10 Street width may be reduced to 29 foot minimum (back of curb) on streets separated from the main flow of traffic which would provide access to properties on one side of the street only (where development of the other side of the street is unlikely due to physical circumstances) if adequate for drainage facilities and as individually approved by the City Council.

NOTE 11 The right-of-way radius is defined as the. property line radius required at intersecting street corner.

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Other design considerations should be based on the following standards:

(a) Except on super elevated curves and at intersections, or where streets are used for drainage, all street sections will have a positive crown to provide drainage from the centerline to each gutter. The slope provided by the crown should not be more than 2% as measured from centerline to edge of pavement.

(b) Finish slope resulting from excavation or embankment shall not exceed 2:1 unless approved by the City Engineer upon receipt of a determination in a soils report that the steeper slope, as constructed, will be stable.

(c) Inverted streets used for storm drainage shall have vertical curb and gutter and inverted crown not exceeding 2%.

Sec. 1-11. Street drainage.

In order to sufficiently justify the design, profiles of upstream and downstream construction along with cross sections should be submitted when abutting existing streets. Drainage calculations should be submitted in support of the design as outlined in the Kingman Area Master Drainage Plan Design and Administrative Manual. The primary question should concern itself with handling the drainage correctly (i.e., is the flow being properly channeled and controlled to a satisfactory area). Valley gutters are not encouraged to cross Major and Minor Arterial streets if other methods are practical. Valley gutters are allowed on Collector, Local, and Rural streets but should be limited to intersections.

Other design considerations should be based on the following standards:

(a) Sheet flow across a street shall be kept to a minimum. In cases where a valley gutter is inadequate, the water must be removed from the pavement to storm sewers or transported by other means.

(b) Pipe under drains may be required where possibility of groundwater or surface water seepage to base soil exists.

Sec. 1-12. Driveways.

Residential driveways are defined as those serving single family or duplex housing. Those serving more than two dwelling units are considered commercial driveways.

The minimum width of residential driveways on Collector and

Local streets shall be 12 feet; the maximum width shall be 25 feet. The minimum distance from the curb return at an intersection shall be 10 feet on Local streets and 20 feet on Collector and Rural streets.

Residential driveway access to Major Arterial streets is prohibited, and strongly discouraged on Minor Arterial streets; however, should it be determined by the City Engineer that it is unavoidable due to topographic conditions or former platting, the same driveway widths as noted above shall apply and the minimum distance from the curb return shall be 30 feet.

Commercial driveways are all driveways and alley entrances not described above. Commercial driveway design and spacing requirements are defined in Section XXII of the City Zoning Ordinance. In addition to the criteria called out in Section XXII of the Zoning Ordinance, the following standards shall also apply to arterial streets:

(a) Where possible, no driveway shall be located closer than 30 feet to the nearest intersecting curb line.

(b) One driveway will be permitted when frontage is less than 300 feet. Two driveways will be permitted when the frontage is 300 to 600 feet. Three driveways will be permitted when the frontage is greater than 600 feet.

(c) Adjacent driveways should be no closer than 60 feet.

(d) The use of shared driveways between adjacent parcels is encouraged whenever possible.

(e) Driveways on opposite sides of a street should not be offset less than 150 feet.

(f) A main driveway into a site shall not have any intersections from parking aisles or on-site streets within 80 feet of the arterial street curb line.

Sec. 1-13. Plan review fees. (This Sec. was deleted by Ord. 1179, passed 07/20/98)

Sec. 1-14. Field inspection fees.

Fees for inspection of the construction of public streets and for materials testing relating to such construction shall be collected by the City prior to the issuance of a permit to work in the right-of-way. Inspection fees shall be 2% of the engineer's estimated cost of construction, as approved by the City Engineer.

Sec. 1-15. Protection of Native Plants. (See Appendix)

ALL CURB CUTS AND DRIVEWAY PLANS SHALL BE APPROVED BY THE CITY ENGINEER

(NO SCALE)

RESIDENTIAL:		COMMERCIAL:
LOCATION:	A	
LOCAL STREET	10'	A - 30'
COLLECTOR STREET	20'	
RURAL STREET	20'	

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Prior to the opening, clearing and construction of any public right-of-way, the developer shall comply with the Native Arizona Plants law described in A.R.S. sections 3-901 through 3-934.

DIVISION 2. DEVELOPMENT

Sec. 2-1. Generally.

(a) Declaration of purpose. This division shall be applicable when the Common Council determines that street, sidewalk or drainage improvements are necessary and provides a procedure for the installation of the necessary improvements which may or may not constitute the entire off-site improvement requirements of a developer at the time of development of his property. This procedure basically consists of the improvement of short stretches, portions or reaches of streets to alleviate a condition deemed undesirable by the Common Council.

(b) Definitions. For purposes of this division, the following words and phrases shall have the following meanings:

Cost means the actual cost of:

(1) Construction of the public street improvements as determined by the construction contract price.
(2) Inspection and permit fees.
(3) Engineering fees required for the preparation of plans and specifications.
(4) Other incidental fees required to complete the improvements.

Development refers to construction of residential, commercial or industrial buildings or structures or major additions or alterations to existing structures and includes new buildings or structures on property having existing buildings or structures. When such property is zoned for agricultural or single-family residential use at the time of assessment, development shall also require a change of use or purpose.

Property owner means the individual, corporation, partnership, trust or other legal entity that owns property adjacent to the right-of-way.

Right-of-way means land which is reserved for or dedicated to the City or general public for street, highway, alley, public utility, pedestrian walkway, bikeway or drainage purposes.

Street improvements include all forms of such improvements, such as asphaltic concrete surfacing,

aggregate base, Portland cement concrete, curbs and gutters, sidewalks, or valley gutters, storm drainage facilities, and irrigation tiling.

Street means the full width of the right-of-way of any road, street, highway, alley, land or pedestrian right-of-way which has been improved or accepted for maintenance by the City.

Sec. 2-2. Construction of street improvements during development.
(renumbered & amended by Ord. 1110 adopted 12/02/96, & previous 2-2 deleted)

(a) At the time of development of any property within the corporate limits of the City, the Common Council may pass an ordinance requiring the construction of street by the property owner of the property being developed. The Council may require street constructed within or adjacent to the property. The determination of necessity shall be made in a public meeting. Notice of the hearing shall be given to the property owners, and other affected persons who would be assessed for the costs of improvements, by certified mail no less than 20 days prior to the date of the hearing. Notice of hearing shall contain:

(1) A description of the proposed street improvements.

(2) The estimated cost of assessment for each affected parcel of property.

(3) The date, time and place that the Common Council shall consider the necessity of improvements and adoption of a resolution of intention.

(b) The determination of necessity by the Common Council resulting in the assessing of property under this section may be appealed by any aggrieved party to the superior court, within thirty days of the Council action.

(c) The Common Council may condition the issuance of permits, including building permits, and utility connections on successful completion of streets improvements.

(d) In the case of new construction for multiple family (duplex arid above) , commercial or industrial development, the developer shall improve the street(s) abutting the property being developed to City standards in accordance with Table One of these regulations. In the case of corner lots, all streets abutting the property being developed shall be improved. ,

This requirement shall also apply to the redevelopment or remodeling of any multiple family, commercial or industrial property that requires a building permit and for which the improvement increases the area of the building or area of the developed portion of the property by 25% or more, or for which the improvement costs exceed $20,000.00 in value, based on the City's valuation schedule used to compute building permit fees. This provision shall not apply to properties that are being redeveloped as the result of a fire or other natural disaster, provided that the work being done is limited to the replacement of the original structure(s) . (This sec. was amended by Ord. 1179 passed 07/20/98)

In cases where only a portion of a large parcel is being developed, or where a series of lots are under one ownership but only a portion of the lots are being developed, the required street improvements shall be built across the full frontage of that portion of property being developed, or as may be essential based on a required traffic impact study, drainage report, or the City's Traffic Safety. Committee. In the case of redevelopment or remodeling of any multiple family, commercial or industrial complex, street improvements will be required for the property frontage affected by the redevelopment or remodeling, as determined by the City's Traffic Safety Committee. (this paragraph amended by Ord. **1046, adopted 06/05/95)**

Preliminary street improvement plans or a request for a street deferral shall be submitted in conjunction with the building permit application. Final street improvement plans shall be approved by the City Engineer prior to construction of street improvements. As-built street improvement plans and street improvements shall be completed or financial assurances (in a form acceptable to the City Council), or a street deferment granted by the City Council, shall be provided for such improvements prior to issuance of a Certificate of Occupancy or sign Off on the final inspection. (amended by Ord. 998, adopted 02/22/94 **and Ord. 1179, adopted 07/20/98)**

(e) Any appeals to this section shall be presented to the City Council for consideration and action. Appeals shall be submitted in writing to the City Planning Director. The City Planning Director shall forward copies of the appeal to the City's Traffic Safety Committee for review and comment, and request the Public Works Director to place the item on the next Traffic Safety Committee agenda, for review and action. Upon receipt of the Traffic Safety Committee's recommendation and all other review comments, the City Planning Director will prepare

a report to the City Council, outlining the required street improvements, the reason for the appeal, and the recommendation of the Traffic Safety Committee and other review comments, and place the appeal on the next regularly scheduled City Council meeting. (This paragraph amended by Ord. 1152, 12/03/97)

The City Council may defer the required street improvements, if it is determined that the construction of the improvements would create a (1) traffic hazard to the area, (2) that the street(s) in question has (have) been identified as part of a major street construction project, and that the required improvements could not be built and salvaged in accordance with the proposed construction project, (3) that the street has been identified as part of an improvement district, (4) that the property affected will be developed in phases and it is beneficial to complete street improvements in conjunction with a later phase of the project (provided there is reasonable assurance that the project will be completed in a timely manner), (5) the property being developed fronts on a street that has been identified as needing horizontal and/or vertical adjustments, (6) that the property fronts on a street that is 90% or more developed and such improvements would serve no benefit to the overall block, or (7) that drainage problems are such that the required street improvements would create drainage flow problems that need to be addressed by a comprehensive street redevelopment project. (This paragraph amended by Ord. 1351, 10/21/02)

If the City Council makes a decision to grant a deferment, the Council may designate such conditions as it deems necessary to secure the intent and purpose of these regulations by requiring such guarantees and evidence that such conditions will be complied with. The granting of a deferment, along with any conditions and guarantees shall be adopted in resolution form and shall run with the land. The Council's decision shall be final and shall become effective upon passage of the resolution, and property owner signs the deferment agreement. The City Clerk shall record the Resolution and Deferment Agreement.

As an alternative to the construction of street improvements at the time of development and/or granting of a deferment, the City Council may accept a cash payment for the required improvement. The value of the street improvements shall be based on a cost estimate developed by the City Engineer, covering the work that would be required if the improvements were constructed as part of the property development, including curb, gutter,

sidewalk, driveway curb cuts, handicap ramps, drainage appurtenances, "half width or match-up" pavement, pavement tapers and engineering and construction staking. In determining the cost estimate the City engineer will take into account recent street improvement unit costs associated with similar City projects, and/or quotes for the improvements by licensed contractors.

In the case of Arterial and Collector Streets where justification for not constructing the improvements is the absence of an overall design or the desirability to include the improvements as part of a larger City project the calculations of the estimated improvement cost shall be based on contract unit prices for recent City projects of a similar nature and shall include the curb, gutter, sidewalk and driveways along the property frontage.

Said payment will be considered as payment in full toward or against any current or future obligations for these street improvements associated with this parcel, including but not limited to assessment districts and improvement district. Additional improvements that are constructed along this particular roadway for which the City Council will be assessing the abutting property owners, will be assessed and billed in the same manner as the Other properties. (amended by Ord. 998, adopted 02/22/94; amended by Ord. 1351, adopted 10/21/02)

Sec. 2-3. Construction of street improvement before development; assessment procedure, (renumbered & amended by Ord. 1110, adopted 12/02/96)

(a) Whenever the Common Council determines that street improvements are necessary before the development of the property, the Common Council may order these improvements to be constructed by the City and the cost shall be assessed against the property.

(1) The assessment of property, if adjacent arterial streets are involved, shall not exceed the cost of improving more than one-half of the width, nor more than 1,000 lineal feet of such adjacent arterial street.

(2) Any parcel of land which, at the time of assessment, is zoned for single family residential use and the width of which does not exceed two hundred (200) lineal feet shall not be assessed greater than one-half the costs of a residential street.

(3) The assessment of property shall not exceed the actual costs incurred by the City at the time of

construction.

(b) Any assessment under this section shall abate if the property has not been developed within ten years' of the assessment.

(c) As used in this section "Development" includes construction of residential, commercial or industrial buildings or structures or major additions or alterations to existing structures and includes new buildings or structures on property having existing buildings or structures situated on such property. When such property is zoned for agricultural or single family residential use at the time of assessment, development shall also include a change of use or purpose.

(d) The Common Council, at a public hearing, shall determine the necessity of street improvements. Notice of the hearing shall be given to the property owners, and other affected persons who would be assessed for the costs of improvements, by certified mail no less than 20 days prior to the date of the hearing. Notice of hearing shall contain:

(1) A description of the proposed street improvements.

(2) The estimated cost of assessment for each affected parcel of property.

(3) The date, time and place that the Common Council shall consider the necessity of improvements and adoption of a resolution of intention.

(e) The determination of necessity by the Common Council resulting in the assessing of property under this section may be appealed by any aggrieved party to the superior court, within thirty (30) days of the Common Council action.

(f) Enforcement and collection of assessment.

(1) Once* the determination is made and the time frame for appeal has elapsed, the City Clerk shall record the resolution of necessity with the County Recorder, and file a list of affected properties with the City Building Official.

(2) At the time of development of the assessed property, the full unpaid amount of the assessment shall be due. No approvals or permits will be issued until the assessment has been paid.

DIVISION 3. WORK IN THE RIGHT-OF-WAY

Sec. 3-1. Definitions.

For the purposes of this division, the following words and phrases shall have the following meanings:

Right-of-way has the meaning set forth in Section 2-1. (b) of this Article.

Work means to construct, repair, pave, resurface, excavate, bore or tunnel on or under any street, sidewalk, gutter or any other right-of-way. Work shall not include utility or cable television customer service connections made in the unimproved portion of the right-of-way, or construction and maintenance of landscaping in conformance with an approved landscaping plan. See Section 10.000 of the Kingman Zoning Ordinance. (This Sec. was amended by Ord. 1179 adopted 07/20/98)

Sec. 3-2. Permit required.

(a) Permits are required for work in a right-of-way. It shall be unlawful for any person, except City employees in the course of their employment, to work in a right-of-way without first having obtained a permit from the Public Works Director.

(b) Application and fees.

(1) Application for a permit to work in a right-of-way shall be obtained from the Public Works Director.

(2) Inspection fees and permit fees: The applicant shall pay a base fee of $30.00. For permits that require cutting the street pavement an additional $30.00 shall be charged per cut. For permits that involve trenching parallel to the street center line a fee of $10.00 per 100 lineal feet shall be charged. If during the course of any work inspection must be performed on Saturdays, Sundays, or Holidays, or at odd hours, the permit holder will pay an additional fee in advance according to the following schedule:

a. Weekdays, 3:30 p.m. to 7:00 a.m.: $22.00 for each hour of inspection with a minimum of $22.00 per call.
b. Saturdays: $30.00 for each hour of inspection with a minimum of $30.00 per call.
c. Sundays and Holidays: $37.00 for each hour of inspection with a minimum of $37.00 per call.

The fees described in this section shall be paid in advance except in the case of an emergency. Fees not paid in advance because of an emergency shall be paid within two working days.

(c) Exceptions.

1) Any person who has a contract with the City for a public works project and is in compliance with that contract shall be excluded from the requirements of this section.

(b) Any utility which, pursuant to a permit, license or franchise, pays a fee to the City for use of the public right-of-way shall not be required to pay the permit fee otherwise required under paragraph (b)(2) of this section.

(Subsection (3) was deleted by Ord. 1137 passed 10/06/97)

Sec. 3-3. Application for permit.

(a) The application for a permit required by this division shall contain such information as the Public Works Director deems necessary.

(b) The applicant shall be an Arizona licensed contractor.

Sec. 3-4. Conditions and restrictions authorized.

In granting a permit required by this division, the Public Works Director may impose reasonable conditions and restrictions, including but not limited to:

(a) The manner, method, location and duration of the work.

(b) Protection of underground utility installations.

(c) Required safety precautions, such as trench shoring, barricades, lighting, warning devices, etc.

(d) The extent and size of the work.

(e) Steps to be taken to protect nearby property.

(f) Provisions for protecting the City from liability.

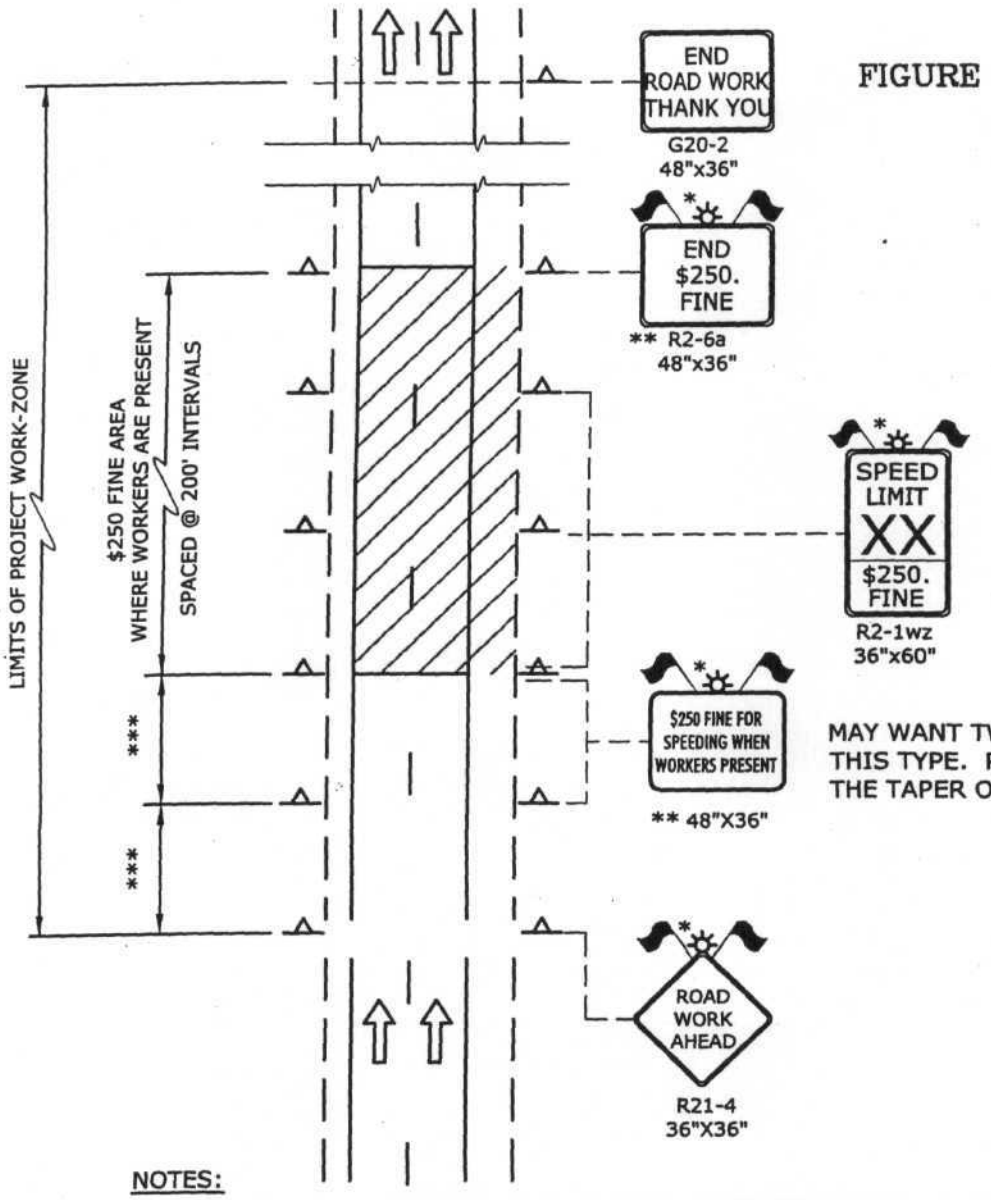
(g) Special speed limit reductions in temporary traffic control zones.

The Public Works Director or the Street Superintendent is hereby authorized to establish a temporary reduced speed limit, within temporary traffic control zones, for the

FIGURE 3-1

48 X 36
5 INCH LETTERS
BLACK/WHITE

FIGURE 3–2



MAY WANT TWO SIGNS OF THIS TYPE. PUT 2ND ONE AT THE TAPER OF THE ZONE.

NOTES:

** 1. THESE SIGNS SHALL BE PLACED ONLY WHEN WORKERS ARE PRESENT IN THE $250 FINE AREA, AND SHALL BE REMOVED IMMEDIATELY WHEN WORKERS ARE NOT PRESENT IN THE $250 FINE AREA.

2. THE SPEED LIMIT IN THE $250 FINE AREA CAN BE THE SAME AS THE SPEED LIMIT OF THE ENTIRE PROJECT WORK-ZONE. THE SPEED LIMIT CAN ALSO BE REDUCED WITH JUSTIFICATION.

3. MORE THAN ONE $250 FINE AREA COULD EXIST IN THE PROJECT WORK-ZONE LIMITS.

* 4. WARNING LIGHTS ARE TO BE INSTALLED FOR NIGHT WORK ONLY.

*** 5. CONSTRUCTION ZONE SIGN SPACING TO BE IN ACCORDANCE WITH SECTION 6C.04 ADVANCED WARNING AREA AND TABLE 6C-1 OF THE MUTCD MANUAL.

SYMBOL LEGEND:

△ - SIGN MOUNTED ON SPRING STAND

⇨ - DIRECTION OF TRAVEL

duration of roadway construction or maintenance if the current speed limit set by ordinance is not reasonable nor safe under the existing conditions. Such reduced speed limits shall be effective when signs are erected giving notice thereof. Reduced speed limit signs shall conform to Figure 3-1 and be installed in accordance with Figure 3-2. The temporary speed limit reductions signs shall only be posted during times when construction and/or maintenance workers are present. The signs shall be removed, laid down or covered when work is not taking place and workers are not present. Speeding in a temporary traffic control zone is prohibited as described in The Kingman Code of Ordinances Chapter 7, Article, I, Sec. 7-71-(d). (Ord. 1324, 03/04/02)

Sec. 3-5. Insurance, bond required.

(a) The Public Works Director shall require the applicant for a permit under this division, prior to the commencement of any work upon the City's right-of-way, to provide either: (i) a certificate of insurance on an approved form; or (ii) an owner's and contractor's protective liability policy issued in the name of the City of Kingman. Either evidence of insurance must be satisfactory to the Risk Manager and provide the following as minimum coverage:

(1) Workmen's compensation coverage;

(2) General liability coverage;

(3) Explosion and collapse hazard, if applicable;

(4) Underground hazard for trenching or excavation;

(5) Products and completed operations hazard;

(6) Contractual insurance (either blanket or specific insurance for this permit);

(7) Broad form property damage coverage;

(8) Either the certificate and/or the policy shall provide for 30 days advance written notice of cancellation or modification of coverage to be sent to the Risk Manager.

(b) The minimum insurance coverage shall be:

(1) Liability insurance: The certificate or policy shall provide coverage in an amount of not less than $1,000,000.00 combined single limit for all

damage arising out of bodily injury to or death of persons and for loss of or damage to property.

(2) Guarantee bond: All applicants shall guarantee the quality of the work for a period of 12 months after completion. This guarantee shall be secured by either a surety bond or a cash bond. The amount of the bond shall be set by the Public Works Director in an amount estimated to cover the costs of repair and reconstruction of the right-of-way. In no case shall the bond be less than $2,500.00. If the work proves to be defective, the City shall give applicant 15 days to correct the defect. If applicant fails to correct the defect, the City may retain the services of another contractor or use City forces to make the repairs using the proceeds from the guarantee bond to satisfy the cost. Contractors licensed by the Arizona Registrar of Contractors to perform the work shall not be required to obtain a guarantee bond.

Sec. 3-6. Filling and surfacing.

Immediately upon completion of the work, the person working in the right-of-way shall restore the surface to a condition at least equal to the surface prior to the excavation, or in the case of boring or tunneling, take such steps or precautions as are necessary to assure that there will be no sinking or shifting of the surface (also see MAG Detail 200-2) . If the person fails to do so, the Public Works Director may elect to fill, resurface or repair the work or take other precautions to protect the right-of-way and charge the cost thereof against the, permittee or the permittee's contractor's bond or guarantee bond.

Sec. 3-7. Permit denial, revocation.

(a) In addition to any other penalty imposed by law, any person violating any provision of this division may have his permit to work in the right-of-way revoked, at the discretion of the Public Works Director.

(b) Any permittee who violates the provisions of this division may be disqualified for additional permits or for public works contracts until the violation is corrected to the satisfaction of the Public Works Director.

Sec. 3-8. Emergency work.

This division shall not prevent any person from working in a right-of-way when necessary for the preservation of life or property during an emergency that arises when City offices are

closed. When excavations or work in the right-of-way is necessary because of an emergency, the police dispatch shall be notified immediately and a permit shall be obtained within one calendar day after City offices are opened.

Sec. 3-9. Street Lighting.

Design and installation of street lights for new developments and subdivisions is the responsibility of the developer. Street lights may be installed in developed areas or in conjunction with street improvement projects by the City with funding from local improvement districts, City revenues, Highway User Funds, Lottery Funds, State and/or Federal grants, and bonds. The Common Council may require street lights be installed by the developer as a condition to approval of specific developments.

(a) General Lighting Layout.

Street light spacing for arterial streets shall be designed on an individual project by project basis to provide illumination levels consistent with recommendations in the U.S. Department of Transportation Roadway Lighting Handbook. For other streets, spacing shall be in accordance with the following table:

Street Width	Type Development	Minimum Lumens	Maximum Spacing	Pole Arrangement
28-foot	Residential	8000	200 ft.	One Side
32-foot	Residential	8000	200 ft.	One Side
40-foot	Residential	13500	200 ft.	One Side
40-foot	Intermediate	13500	135 ft.	Staggered
40-foot	Commercial	13500	100 ft.	Staggered
60-foot	Residential	22500	120 ft.	Staggered
60-foot	Intermediate	22500	100 ft.	Staggered
60-foot	Commercial	33000	110 ft.	Staggered

(b) Location and Placement.

The following criteria shall be used for pole placement in relation to the roadway cross section:

1. One foot back of sidewalk.
2. Curb, but no sidewalk: six feet back of curb.
3. No curb or sidewalk: six feet back of future curb or six feet back of pavement edge.

Poles may be placed in raised median areas in divided roadways, if practicable. Twin mast arms shall then be used.

Wiring for street lights shall be underground in conduit

at a constant offset from the curb line approximately equal to the pole line offset.

(c) Luminaries.

All luminaries shall be the low pressure sodium (LPS) or high pressure sodium (HPS) type with shielding and diffusers satisfying requirements of the Outdoor Lighting Code (found in the Zoning Ordinance, Sec. 34). Luminaries and fixtures must be approved by the Public Works Director as being compatible with other equipment in the City.

(d) Support Structures.

Street light support structures consist of the foundation, pole and mast arm. Poles and mast arms shall be fabricated from weldable sheet steel and shall be galvanized in accordance with the requirements of AS-TM A123. Bolts and other hardware shall also be galvanized steel. Anodized aluminum supports may also be considered by the Public Works Director.

(e) Plans.

The developer shall submit to the City, for review and approval, six sets of detailed plans, drawings, photographs, photometric curves, templates and specifications of all proposed apparatus and equipment. The plans shall show the location of each pole, all electric lines and control equipment. They shall clearly show the design, construction, dimensions, quantities and such other information as may be necessary or desirable for a proper understanding.

The developer shall not order lighting and electrical equipment until approval of such submittal is received from the* City. Approval of working drawings and submittal by the City shall not relieve the developer or contractor of responsibility for erroneous or inconsistent dimensions, notations, omissions or other errors, or the proper functioning of the completed installation.

(f) Operation and Maintenance.

The operation and maintenance of existing arterial street lighting systems is the responsibility of the Public Works Department. Operation and maintenance costs for future systems serving new developments, and existing and new residential areas, will normally be funded by a local lighting improvement district.

Sec. 3-10. Landscaping rights-of-way.

The planting of any tree, shrub, or ground cover within the right-of-way of any Major or Minor Arterial street shall be approved by the Public Works Director, unless the proposed landscaping is done in conformance with an approved landscape plan per Section 10.000 of the Kingman Zoning Ordinance. (This Sec. was amended by Ord. 1046, adopted 06/05/95 and Ord. 1179 adopted 07/20/98)

Prior to the installation of any landscaping or the commencement of any associated grading or digging, the property owner shall give forty eight hours notice to "Blue Stake" for utility location.

Sec. 3-11. Escape, of water prohibited.

It shall be unlawful for any person to willfully or negligently permit or cause the escape or flow of water from the municipal water system in such quantity as to cause flooding, impede vehicular or pedestrian traffic, create a hazardous condition to such traffic, create a condition which constitutes a threat to the public health and safety, or cause damage to the public streets or alleys of the City. Each violation of this section, and each day on which a violation occurs, shall be considered a separate offense.

DIVISION 4. STREET NAMES

Sec. 4-1. Names.

(a) The names of the streets and avenues of the City are designated as shown on the "Official City Map - City of Kingman" as adopted under Sec. 2-3 of the City Code of Ordinances, which is a public record and three copies of which are on file in the office of the Clerk. For new streets, street names shall be included on the subdivision plat or parcel plat; or be submitted to the Planning Department for scheduling for review and approval by the Common Council.

(b) Names for new streets shall be consistent with natural alignment and extensions of existing streets, and shall not duplicate in whole or part or be confused with existing street names within the Greater Kingman Area.

(c) North-South streets shall use the designation of "Street", East/West streets shall use the designation of "Avenue". Cul-de-sacs and short terminated streets shall use the designation of "Circle", "Drive", "Bay", "Loop", "Way", and shall use the same name as the through road they are serviced by. Arterials may be called "Road" or "Boulevard".'

DIVISION 5. RIGHT-OF-WAY VACATION

(this division was amended by Ord. 1128, May 5, 1997)

Sec. 5-1. Vacation of public rights-of-way and extinguishment of public easements.

A. Purpose

This section outlines the procedures to be followed by the City when dealing with requests to vacate public rights-of-way by owners of abutting property. It is intended to ensure consistent processing and disposal practices associated with vacations and to ensure compliance with applicable State law.

Dispositions of public rights-of-way by exchange and/or public sale are not within the scope of this section. As to matters regarding disposition of public rights-of-way not addressed in this section, and whenever and to the extent that this section conflicts with State law, in particular A.R.S. §§ 9-240(B)(3) and 28-1901, et seq. [after October 1, 1997, A.R.S. §28-7201, et seq.], State law shall be applied and followed.

B. General Provisions

1. For the purpose of this section, right-of-way shall have the same meaning as in Section 2-1(b).

2. Public rights-of-way or right-of-way easements containing existing sewer, gas, water or similar pipelines and appurtenances and for canals, laterals or ditches and appurtenances, and for electric, telephone and similar lines and appurtenances shall not be eligible for vacation.

3. A right-of-way or right-of-way easement shall not be vacated so as to leave any land adjoining without ingress and egress for public or emergency vehicles, the property owners, their guests and invitees and persons lawfully conducting business on the land.

4. Any resolution of vacation shall be subject to the giving of consideration by the owner of the abutting property in an amount deemed by the Common Council to be commensurate with the value of the right-of-way. In determining the value, the Common Council shall give due consideration to the degree of fragmentation and marketability and any public benefit received by the City in return for the right-of-way.

5. If the City owns no title to a right-of-way but holds a right-of-way or utility easement only, such easement may be extinguished by resolution, without consideration or determination of value, upon finding of the Common Council that the easement is no longer necessary for public use or purposes.

6. A resolution for vacation of a right-of-way or for extinguishing of a right-of-way or utility easement shall not take effect unless and until it is recorded by the City Clerk in the office of the county recorder.

C. Procedure

1. In order to initiate the vacation of any right-of-way, the abutting owner shall complete and submit the City's "Request for Right-of-Way Vacation" form to the Planning Director, along with the required processing fee. In completing this form, the abutting owner shall outline the location and dimensions of the right-of-way, give an estimate of value and state why the vacation should be considered. The applicant shall also submit a preliminary title report showing ownership of all properties contiguous to the right-of-way, and a map depicting the area.

2. Any vacation requiring a survey and written legal description, as determined by the City Engineer, shall be prepared by a qualified registrant at the expense of the applicant and submitted to the City Engineer for review and approval.

3. Upon receipt of the above materials, the Planning Director shall initiate the processing of the vacation in the following manner:

   a. Forward a copy of the request to the City Engineer, City Attorney, Public Works Director, City Fire Chief and all utility companies providing service to the Kingman area.

   b. Forward a letter outlining the request to all property owners within 300 feet of the proposed vacation.

   c. Schedule a public hearing before the Planning and Zoning Commission for evaluation of the proposed vacation.

d. Post the area proposed for vacation in no less than three places.

e. Review the request for conformance with A.R.S. § 28-1901, et seq. [after October 1, 1997, A.R.S. § 28-7201] and this section.

f. Present the Planning and Zoning Commission a comprehensive report, outlining all comments received from the reviewing agencies. The report shall also include staff's analysis and recommendations concerning the required finding value as referenced by subsection B.4. above.

g. Schedule the request along with the recommendation of the Planning and Zoning Commission for review and action by the Common Council.

D. Disposition of the right-of-way

1. Upon determining that the subject right-of-way or right-of-way or utility easement is no longer necessary for public use, the Common Council shall:

a. In the case of a right-of-way easement to .. which the City holds not title, resolve that the easement be extinguished.

b. In the case of a right-of-way to which the City holds title, determine the amount of consideration to be given by the abutting owner in accordance with subsection B.4., above, and resolve that the right-of-way be vacated subject to payment of that amount.

2. Title shall pass and/or the City's interest shall be extinguished upon payment of the consideration, if any, and after recording of the resolution by the City Clerk.

DIVISION 6. ENCROACHMENTS INTO RIGHTS-OF-WAY

Sec. 6-1. Supervision, inspection and maintenance.

The City Engineer and Chief of Police are authorized to make such inspections as they may deem necessary in connection with permits issued under this division. All work done or uses under such permits shall be under the supervision of and to the satisfaction of the City Engineer or Chief of Police. Permittee

shall maintain the encroachment in good condition to the satisfaction of the City Engineer or Chief of Police.

Sec. 6-2. Restoration of right-of-way.

Upon completion of the work for which the permit was issued, or when required by the City Engineer or Chief of Police, the permittee shall replace, repair or restore the rights-of-way or water course to the same condition unless otherwise provided in the permit. The permittee shall remove all obstructions, impediments, materials, and rubbish caused or placed within or upon the water course or right-of-way and shall do any other work deemed necessary by the City Engineer or the Chief of Police to restore the water course or right-of-way to a safe and usable condition, ready for regular and normal use.

Sec. 6-3. Preservation **of** monuments.

Any monument of granite, concrete, iron or other lasting material set for the purpose of locating or preserving the lines or elevation of a any right-of-way, property subdivision, or a precise survey point or reference point shall not be removed or disturbed without first obtaining permission from the City Engineer to do so, such permission to* be granted in conformance with requirements established by the City Engineer. Replacement of a removed or disturbed monument shall be at the expense of the permittee.

Sec. 6-4. Emergency work.

This division shall not prevent any person from maintaining any pipe or conduit lawfully on or under any right-of-way, or from making excavation, as may be necessary for the preservation of life or property when an urgent necessity therefore arises during the hours the offices of the City are closed, except that the person making an emergency use or encroachment on a public street shall notify the City police dispatch immediately and then apply for a permit within one calendar day after City offices are opened.

Sec. 6-5. Violations.

If a permittee fails to comply with the conditions of his permit, or any provisions of this division, the permit shall become void and the permittee shall be required to restore the right-of-way within 30 days, or the City may restore the right-of-way assessing the bill against the property owner as well as having a lien against the property:

(3) For substantial and non-substantial encroachments beyond 72 hours.
(4) For nonsubstantial encroachments of 72 hours or less, the permit shall become void immediately and permittee shall remove encroachment immediately.

Sec. 6-6. Permit Required.

No person shall encroach or cause to be made any encroachment of any nature whatever within, upon, over or under the limits of any right-of-way or watercourse or make or cause to be made any alteration of any nature within, upon, over or under the limits of any right-of-way or watercourse; or construct, put upon, maintain or leave thereon, any obstruction or impediment of any nature whatever, or remove or cut trees thereon, or set a fire thereon, or place on, over or under such right-of-way, pipeline, conduit or other fixtures, OR move over any bridge, viaduct, or other structure maintained by the city any vehicle or combination of vehicles or other object of dimension or weight prohibited by law or having other characteristics capable of damaging the right-of-way, or place any structure, wall, culvert, or similar encroachment, or make any excavation or embankment in such a way as to endanger the normal usage of the right-of-way or water course without having first obtained a permit.

Encroachments onto the public right-of-way made in the following manner do not require approval of either a nonsubstantial or substantial encroachment permit:

1. Work done under an approved permit to work in the right-of-way per Section 3-2 of this Article.
2. Landscaping installed and maintained in conformance with an approved landscape plan per Section 10.000 of the Kingman Zoning Ordinance.
3. Lawns, gravel, bricks, and other low ground cover not exceeding six inches in height, used for landscaping and not posing an obstacle to pedestrian and vehicular traffic. (This Sec. amended by Ord. 1179 adopted 07/20/98)
4. Within the historic commercial overlay district, as outlined within Section 12.00 of the City of Kingman Zoning Ordinance, currently licensed businesses in commercial buildings with "0" front lot lines, may display up to three (3) items (no motor vehicles), but not for sale, on the sidewalk adjacent to their building frontage. Any such display shall not pose an obstacle to pedestrian or vehicular traffic, and shall be subject to removal at the request of the City Engineer or Chief of Police. (This paragraph added by Ordinance No 1273, passed 11/06/2000)

Sec. 6-7. Special provisions for substantial encroachments.

The written permits for substantial encroachments required by this division shall be granted by the Common Council and issued by the City Engineer, subject to the provisions of this article and other applicable laws. No permit shall be valid unless signed by the City Engineer or his authorized agent. Application for a substantial encroachment permit shall be made to the city engineer's office. The applicant shall provide the City Engineer the names and addresses of all abutting property owners and

residents within three hundred feet of both sides of the proposed encroachment on the same side of the street.

Sec. 6-7.1 - Bus/Transit Benches.

Notwithstanding anything to the contrary herein, bus/transit benches shall be allowed within public rights-of-way under the provisions of the Substantial Encroachments Permit process, subject to the following limitations:

(a) An annual permit for each and every bus/transit bench shall be issued by the City Engineer, subject to City Council approval as outlined under Sec. 6-9 (for the initial request). An annual fee of twenty five dollars ($25.00) shall be levied for each location for which a permit is issued. The term of the permit shall be based on the City's fiscal year calendar, and the annual fee shall be due and payable on or before July 1st of each year.

(b) Permits for bus/transit benches may only be issued to a provider of public mass transit within the City limits, and upon presentation of liability insurance in an amount of not less, than One Million Dollars ($1,000,000.00), naming the City of Kingman as an additional insured, which insurance must be maintained in full force and effect for as long as the benches permitted are within the City right(s)-of-way.

(c) The number and location of each bus bench is subject to the approval of the City Engineer, in his/her sole discretion, provided, however, that a bus bench may only be located at a duly designated bus/transit stop. An applicant for bus/transit benches may appeal the City Engineer's decision pursuant to this subsection to the Traffic Safety Committee.

(d) Any permit issued hereunder is conditioned upon the permittee maintaining the bus benches in a clean, safe and structurally sound condition, so as not to create a visible deteriorated or blighted appearance. Upon notification by the City Engineer or his/her designated agent, any maintenance required to the benches shall be corrected with ten days from the date of notification, or the permit for the bench shall be revoked and the bench removed by City forces, the cost of which removal shall be assessed against the permittee, and may be recovered by the City in a civil action instituted in the appropriate Court of Law.

(e) Any Signage on a bus/transit bench shall be limited to the name, address, phone number, business logo and/or

services offered by the business so advertised. The horizontal dimension of the sign shall not extend beyond the actual seating dimensions of the bench, but in no event to exceed eight (8) feet. The vertical dimension of the sign shall commence at the seat of the bench, and shall extend no further than forty-four (44) inches above the ground. The following types of signs shall be specifically prohibited: illuminate signs, directional signs with arrows, animated signs, and any sign specifically prohibited under Section 25 of the City Zoning Ordinance.

(f) Any permit issued hereunder is revocable at will by the City Council. In the event of revocation, if the permittee does not remove any benches for which a permit has been revoked pursuant to this subsection within 20 days after receiving notice thereof, the City Street Superintendent may effectuate the removal of said benches, the cost of which removal shall be assessed against the permittee, and may be recovered by the City in a civil action instituted in the appropriate Court of Law. (this Sec. added by Ord. 1069, adopted 02/05/96)

Sec. 6-8. Special provisions for nonsubstantial encroachments.

Nonsubstantial encroachment permits may be issued by the City Engineer or Chief of Police without Common Council approval. A permit for nonsubstantial encroachment existing for a period of 72 hours or less may be obtained from the Chief of Police. A permit for a period in excess of 72 hours for a nonsubstantial encroachment may be issued by the City Engineer. Nonsubstantial permits handled by* the City Engineer will include, but not be limited to, landscaping the ground with lawns, shrubs, fences, walls, dividers, or other materials not exceeding a height of 2 feet above the adjacent curb and also installation of mail boxes and refuse containers. The individual obtaining a nonsubstantial permit from the City Engineer or Chief of Police shall agree to maintain the encroachment and remove it at the City Engineer or Chief Of Police's request. (This Sec. amended by Ord. 1179 adopted 07/20/98)

Sec. 6-9. Notice of hearing on substantial encroachment permits.

(a) Notice of intended substantial encroachment shall be processed according to procedure set out herein.

(b) Notice of hearing on substantial encroachments shall be given by:

(1) Mailing a written notice to all abutting property owners as shown in the latest equalized assessment roll, within ten (10) days after the date of application and not less than seven (7) days prior

to the date of the hearing;

(2) Publication of a notice in a newspaper of general circulation within ten (10) days after the date of application and not less than seven (7) days prior to the date of the hearing;

3. Posting notices along the line of the street of the encroachment at not more than three hundred (300) feet from each side of the proposed encroachment within ten (10) days after the date of application and not less than seven (7) days prior to the date of the hearing.

(4) Mailing written notice to all public utility companies, water districts and flood control districts having jurisdiction, within ten (10) days after the date of application and not less than seven (7) days prior to the date of the hearing.

(c) The notice shall include:

(1) Name of. street;

(2) Term of proposed encroachment;

(3) Description of proposed encroachment;

(4) Length of time of proposed encroachment;

(5) Proposed commencement date of encroachment;

(6) Date, time and place of public hearing at which the common council shall hear objections to the proposed prohibition of excavation and/or encroachment.

Sec. 6-10. Fees.

The fee for a substantial encroachment permit shall be $30.00 plus costs of publication, recording and other costs incidental thereto. No fee shall be required for a nonsubstantial encroachment permit unless publication or recording are required, in such cases such costs will be charged according to the cost of publication or recording.

Sec. 6-11. Terms.

(a) The permittee shall begin work or the use authorized by a permit issued pursuant to this article within ninety days from date of issuance, unless a different period is stated in the permit. If the work or use has not

commenced with ninety days or the stated period, the permit shall become void.

(b) The permittee shall complete the work or use authorized by a permit issued pursuant to this article within the time specified in the permit. If at any time the City Engineer finds that the delay in the prosecution of completion of the work or use authorized is due to lack of diligence on the part of the permittee, he shall notify permittee to proceed within thirty days. Failure to correct with thirty days will cancel the permit and permittee shall restore the right-of-way or water course to its former condition. The permittee shall reimburse the City for all expenses by the City in restoring the right-or-way or watercourse.

Sec. 6-12. Permit changes.

No changes of a substantial encroachment shall be made without Common Council approval. Non-substantial encroachment permits shall not be changed unless written authorization is first obtained from the City Engineer or Chief of Police.

Sec. 6-13. Display and assignment.

(a) The permittee shall keep any permit issued pursuant to this article at the site of work, or in the cab of a vehicle when movement on a public street is involved, or a permit issued for a continued use or maintenance of an encroachment may be kept at a place of business or residence of the permittee or otherwise safeguarded during the term of validity, but in all cases the permit shall be shown to any authorized representative of the City Engineer or law officer upon demand.

(b) The permittee assumes the burden of proof that the above activity, condition, or event did not cause such cost damage or other damage. The use of the right-of-way may be transferred to any new owner or lessee by notifying the City Engineer, in writing within ten days of the transference of the property, that the new owner or lessee is aware of the terms of the permit and agrees to them in writing.

Sec. 6-14. Insurance and bond.

(a) The City may require the permit applicant to maintain at all times Commercial General Liability in the amount of one million dollars ($1,000,000) combined single limit per occurrence for bodily injury and property damage; such liability insurance shall continue in effect for as long as the permit is in effect.

(b) The City may require the applicant to provide Automobile Liability; in the amount of one million dollars ($1,000,000) combined single limit per accident for bodily injury and property damage during the term of construction.

(c) The City may require the applicant for a substantial encroachment permit to provide Workers Compensation and Employers Liability as required by the Labor Code of the State of Arizona and Employers Liability limits of $500,000 per accident.

(d) If a 72 hour or less nonsubstantial encroachment application is made with the Chief of Police, he may require applicant to post a cash bond in an amount reasonably expected for clean-up, or $50.00. Such bond may be refunded if all requirements stipulated by the Chief of Police are met.

Sec. 6-15. Limitations on permits; revocation; costs.

(a) The permittee shall be responsible for any and all liability imposed by law for personal injury or property damage caused by work permitted and done by permittee under permit or proximately caused by failure on the permittee's part to perform his obligations under the permit. If any claim of such liability is made against the City, its officers or employees, the permittee shall defend, indemnify and hold them and each of them, harmless from such claim insofar as permitted by law.

(b) Any permit grated in pursuance of this ordinance may be revoked by the City and all right thereunder terminated, and upon notice from the City, the permittee shall within thirty days remove all encroachment property belonging to the permittee at his expense. If not removed with thirty days, the City may remove such property and the costs thereof shall be a lien against the property. A nonsubstantial encroachment permitted for 72 hours or less may be required to be removed by the Chief of Police immediately.

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(c) All work authorized by the permit for in this article shall be done at the sole cost and expense of the permittee and shall be done at such time and in such manner as to be least inconvenient to the traveling public, and as directed by the City Engineer or Chief of Police.

(d) The permittee agrees to have and hold harmless the City, any of its departments, agencies, officers or employees from all cost and damage incurred by any of the above and

from any other damage to any person or property whatsoever which is caused by an activity, condition, or event arising out of the performance or nonperformance of any provision of this agreement or the exercise of this permit or license by permittee, any of its agents, or any of its departments, agencies, officers, or employees shall include in the event of an action, court costs, expenses of litigation and reasonable attorney's fees. When any above cost and/or damage occurs as aforesaid, permittee assumes the burden of proof that the above activity, condition or event did not cause such cost, damage or other damage.

Sec. 6-16. Nonsubstantial encroachment appeal procedure.

An applicant who is turned down for a nonsubstantial encroachment permit by the City Engineer or the Chief of Police may appeal within ten days to the Common Council.

DIVISION 7. PENALTIES

Whenever in these Regulations, or any ordinance amending these Regulations, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in these Regulations the doing of any act is required or the failure to do any act is declared to unlawful or a misdemeanor, where no specific penalty is provided therefor, the violation of any such provision of these Regulations shall be punishable by a fine not exceeding one thousand dollars ($1,000.00) or by imprisonment in jail for not more than six (6) months, or by both such fine and imprisonment in the discretion of the City Magistrate. Each day any violation of any provision of these Regulations shall constitute a separate offense. In all cases where the same offense is made punishable or is created by different clauses or sections of these Regulations, the prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense; provided the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

ARIZONA

STREETS AND SIDEWALKS
DEVELOPMENT RULES AND REGULATIONS

APPENDIX

07/02

TITLE 3. AGRICULTURE

CHAPTER 7.--ARIZONA NATIVE PLANTS

ARTICLE 1. ADMINISTRATION

Section 3-901. Definitions,

In this chapter, unless the context otherwise requires:

1. "Associate director" means the associate director of the division.

2. "Division" means the plant industries division of the Arizona department of agriculture.

3. "State agency" means any agency or political subdivision of the state.

4. "State land" includes land owned by this state or by a state agency.

Section 3-902. Administration and enforcement.

The director shall administer and oversee the enforcement of this chapter.

Section 3-903. Protected group of plants; botanical names govern; categories of protected plants; power to add or remove plants; annual hearing.

A. The protected group of native plants shall include, and protected native plants shall be, any plant or part of a plant, except, unless otherwise specifically included, its seeds or fruit, which is growing wild on state land or public land or on privately owned land without being propagated or cultivated by human beings and which is included by the director on any of the definitive lists of protected categories of protected native plants described in this section. The director by definitive lists may divide any protected category into subcategories which are to receive different treatment under the rules adopted under this article to conserve or protect such plants. In the preparation of each list of plants within a protected category or subcategory the director shall list by botanical names all of those protected plants which are to fall within the protection of that category or subcategory. The botanical names of the listed plants govern in all cases in the interpretation of this article and any rules adopted under this article.

B. The director shall establish by rule the lists of plants in the following categories of protected native plants:

1. Highly safeguarded native plants to be afforded the exclusive protections, including the use of scientific or threatened collection and salvage permits, provided this category in this chapter. This category includes those species of native plants and parts of plants, including the seeds and fruit, whose prospects for survival in this state are in jeopardy or which are in danger of extinction throughout all or a significant portion of their ranges, and those native plants which are likely within the foreseeable future to become jeopardized or in danger of extinction throughout all or a significant portion of their ranges. This category also includes those plants resident to this state and listed as endangered, threatened, or category 1 in the federal endangered species act of 1973 (P.L. 93-205; 87 Stat. 884; 16 United States Code ss 1531 et seq.), as amended, and any regulations adopted under that act.

2. Salvage restricted native plants to be afforded the exclusive protections involving the use of salvage permits, tags and seals provided in this chapter. This category includes those native plants which are not included in the highly safeguarded category but are nevertheless subject to a high potential for damage by theft or vandalism.

3. Export restricted plants to be afforded the exclusive protections, involving the use of safeguards against their overdepletion through interstate sale or shipment, provided in this chapter. This category includes those protected native plants which are not included in the highly safeguarded category but are nevertheless subject to overdepletion if their exportation from this state is permitted.

4. Salvage assessed native plants to be afforded the exclusive protections, involving the use of salvage tags and seals and annual salvage permits, provided in this chapter. This category includes those native plants which are not included in either the highly safeguarded or salvage restricted categories but nevertheless have a sufficient value if salvaged to support the cost of salvage tags and seals.

5. Harvest restricted native plants to be afforded the exclusive protections involving the use of harvest permits and wood receipts provided in this chapter. This category includes those native plants which are not included in the highly safeguarded category but are subject to excessive harvesting or overcutting because of the intrinsic value of their by-products, fiber or woody parts.

C. The director by rule may add or remove a native plant to or from the protected group or any of the categories of protected native plants.

D. The director shall hold a public hearing on native plants at least every twelve months after giving notice as required by section 3-912, subsection B.

Section 3-904. Destruction of protected plants by private landowners; notice; exception.

A. Except in an emergency, this chapter does not prevent the destruction of protected native plants or clearing of land or cleaning or removing protected native plants from a canal, lateral ditch, survey line, building site or road or other right-of-way by the owner of the land or the owner's agent if:

1. The land is in private ownership.

2. The protected native plants are not transported from the land or offered for sale.

3. The owner or the owner's agent notifies the department pursuant to this section of the intended destruction at least:

(a) Twenty days before the plants are destroyed over an area of less than one acre.

(b) Thirty days before the plants are destroyed over an area of one acre or more but less than forty acres.

(c) Sixty days before the plants are destroyed over an area of forty acres or more.

4. The protected plants are destroyed within one year of the date of destruction disclosed in the notice given the department in paragraph 3 of this subsection.

B. The notice under subsection A, paragraph 3, subdivision (a) may be oral or written. The notice under subsection A, paragraph 3, subdivisions (b) and (c) must be in writing. The notice under subsection A, paragraph 3, whether written or oral, shall include:

1. The name and address of the owner of the land and, if the owner is not a resident of this state, the name and address of the owner's agent in this state to be contacted regarding the destruction or salvage of the native plants.

2. The earliest date that destruction of the protected native plants will begin.

3. A general description of the area in which the protected native plants will be destroyed.

4. Whether the owner intends to allow salvage of the plants to be destroyed.

. C. The director by rule shall:

1. Prescribe the form and content of the notice which shall be adequate and comply with subsection B and shall provide landowners with copies of the notice on request.

2. Provide for an alternative procedure in cases in which the landowner is not required to notify the department in writing. The alternative procedure shall include:

(a) Oral notification by the landowners to the department.

(b) Preparation by the department of a written notice form. The department shall transmit a confirming copy to the landowner, and the owner may not begin destruction of protected native plants until he receives the written confirmation and the time prescribed under subsection A, paragraph 3 has elapsed.

D. The written notice form, whether completed by the landowner or the department, shall include the following notice in bold-faced type:

NOTICE: Consent of the landowner is required before entering any lands described in this notice.

E. Within five working days after receiving the notice required under this section the department shall post a copy of the notice in a conspicuous location in the public area of the division office that administers the department activities in the county where the land is located on which the native plants are to be destroyed. The division shall also mail a copy of the notice to any salvage operator or interested party that has requested notice of such activities occurring during the current calendar year. The director by rule may establish and the associate director shall collect a reasonable fee from those receiving copies of the notice to cover the cost of providing this notice.

F. If the department receives a notice of intended destruction under subsection A, paragraph 3 and subsequently receives a complete and correct application for a salvage permit executed by the owner of the land or his agent for any highly safeguarded or salvage restricted native plants intended to be destroyed under the notice, the department shall facilitate the prompt salvage of the plants by issuing a permit, and any associated tags and seals, within four working days.

G. The notice requirements of subsection A, paragraph 3 do not apply to the destruction of native plants that occurs in the normal course of mining, commercial farming and stock raising operations if the plants are destroyed over an area of less than one acre and, if the area exceeds one acre, any notice required by subsection A, paragraph 3, may be given by oral notice.

H. This section does not apply to the destruction of protected native plants on individually owned residential property of ten acres or less where initial construction has already occurred.

Section 3-905. Destruction of protected plants by state.

A. Except in an emergency, if a state agency proposes to remove or destroy protected native plants over an area of state land exceeding one-fourth acre, the agency shall notify the department in writing as provided in section 3-904 at least sixty days before the plants are destroyed, and any such destruction must occur within one year of the date of destruction disclosed in the notice. The department shall post and disseminate copies of the notice as provided in section 3-904, subsection E. This state and its agencies and political subdivisions are exempt from any fees established for salvaged plants.

B. If the director determines that the proposed action by the state agency may affect a highly safeguarded plant, he shall consult with the state agency and other appropriate parties and use the best scientific data available to issue a written finding as to whether the proposed action would appreciably reduce the likelihood of survival or recovery of the plant taxon in this state. If the determination is affirmative, the director shall also specify reasonable, prudent and distinct alternatives to the proposed project that can be implemented and are consistent with conserving the plant taxon.

C. The director shall adopt rules for the disposal and salvage of native plants subject to removal or destruction by a state agency either under permit to other government agencies or nonprofit organizations or sale to the general public or commercial dealers. The department may issue permits to donate, sell, salvage or harvest the plants after it ascertains the validity of the request and determines the kinds and approximate number of the plants involved. The permit shall specify the number and species of protected native plants and the area from which they may be taken.

Section 3-906. Collection and salvage of protected plants; procedures, **permits, tags and seals; duration; exception.**

A. Except as provided in this chapter a person shall not take, transport or have in his possession any protected native plant taken from the original growing site in this state without having in his possession a valid permit issued by the division. The division shall issue permits in either a name or business name. A permit to take, transport or possess native plants is nontransferable, except that a permittee, by subcontract or otherwise, may allow its agents to work under, the permit if the

permittee remains primarily responsible for the actions of persons acting under his expressed or implied authority.

B. Permits applicable to highly safeguarded native plants may be issued only for collection for scientific purposes or for the noncommercial salvage of highly safeguarded native plants whose existence is threatened by intended destruction, or by their location or by a change in land usage, and if the permit may enhance the survival of the affected species.

C. Permits issued for the salvage of salvage assessed native plants shall be issued for a period of one calendar year without respect to the land from which the plants will later be taken. The associated tags and seals shall be issued individually or in bulk on payment of any fees required under section 3-913, subsection A, without respect to the specific plants for which they will be used. All such tags and seals remain valid for use in subsequent years as long as the permit is renewed.

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D. The division shall provide tags and seals for each permit issued for taking, transporting or possessing highly safeguarded, salvage restricted or salvaged assessed native plants. The director by rule shall establish procedures and forms for permits, tags and seals to be issued for the collection and salvage of highly safeguarded native plants and the salvage of salvage restricted and salvage assessed native plants. The director by rule may establish and modify the form and character of the tags and seals described in this section. All such tags and seals shall be attached to the plants at the time of taking and before transporting. It is unlawful to remove a tag or seal from a protected native plant that has been taken and tagged pursuant to this article before the plant has been transplanted at its designated site. A tag or seal may be removed only by a designated agent of the division or by the owner of the plant.

E. This section does not apply to the transporting of protected native plants by a landowner or his agent from one of his properties to another if the plants are not offered for sale.

Section 3-907. Cutting or removal of harvest restricted plants for their by-products, fiber or wood; procedures: exceptions.

A. The division shall provide harvest or wood permits, and wood receipts with each wood permit, authorizing the taking, transporting or possessing of harvest restricted native plants cut or removed for manufacturing or processing purposes, for their by-products, fiber or wood. It is unlawful for a person to take, transport or possess such a plant for its by-products, fiber or wood if he is not in possession of a permit and any required receipt. A permit or receipt is not transferable by the permittee

or his agent, nor may it be used by anyone other than the person to whom it was issued, except that the permittee shall transfer the receipt to the purchaser as proof of ownership of the wood covered by the receipt.

B. A person in possession of a valid permit for the removal of dead plants, wood, fiber or other by-products issued by the United States department of agriculture or the United States department of the interior from lands under the administration of the United States forest service or the United States bureau of land management is exempt from the permit required by subsection A. •

C. This chapter shall not be construed to prohibit any person from cutting, removing, transporting or possessing any harvest restricted native plant or part for manufacturing or processing purposes in amounts of one hundred pounds or less, or any such plant or part as wood in amounts of two cords or less in quantity from land owned or leased by that person, other than state-owned land or other public land, or from land if the owner has given written consent to the person to cut, remove, transport or use the plant, or its fiber or wood.

D. This section does not apply to the use of dead wood for branding fires or at permissible camping or cooking sites for camping or cooking fires or cutting, removing, transporting or possessing dead harvest restricted plants or the dead parts from such plants from land owned or leased by that person.

Section 3-908. Prohibited acts; use of permits, tags, seals and receipts.

A. Except as provided in this chapter, it is unlawful for. a person to destroy, dig up, mutilate, collect, cut, harvest or take any living highly safeguarded native plant or the living parts of any highly safeguarded native plant, including seeds or fruit, or any other living protected native plant or the living parts of any other protected plant, except seeds or fruit, from state land or public land without obtaining any required permit, tags, seals or receipts from the department, or from private land without obtaining written permission from the landowner, and any required permit, tags, seals or receipts from the department. It is unlawful for a person to falsify any paper or document issued to give permission for a person to take native plants of the protected group or to take more protected native plants than authorized by the permit or to take protected native plants from areas other than authorized by the permit.

B. Permits issued for the removal of protected native plants, or any parts of protected native plants, except permits issued for the salvage of salvage assessed native plants, shall be granted only on submission to the division of an application executed by both the

landowner or his agent and the party who intends to be the permittee, after being completed by either or both, and are valid for a stated period of time to allow the permittee to remove the specific amount of plants, by-products, fiber or wood stated in the permit, or that period of time stated by the landowner as part of the landowner's permission, whichever is shorter. The permit expires on the termination date shown on the permit, when the tags and seals issued with the permit have been attached to the plants covered by the permit and the plants are no longer in the possession of the permittee or when the receipts have been transferred to the purchaser of the wood covered by the receipts.

C. A permit is valid for taking plants or parts of plants listed on the permit but not removed from the land described in the permit until the permit's expiration or for one year from the date of issuance, whichever occurs first, except that for any permit the tags and seals, or receipts, issued therewith but not yet used by the permittee become invalid if the land on which the plants are growing, and described in the permit, changes ownership, unless the new owner certifies in writing that the permittee may continue taking the plants or parts of plants as specified on the permit.

D. It is unlawful for a person or scientific or educational institution to misuse a permit in any manner. A permittee shall make permits, tags, seals and receipts available for inspection by the department or any peace officer as provided for in this chapter. A tag, seal or receipt is invalid unless it is issued with a valid permit. A permit is invalid unless it bears the required tag numbers or receipt numbers on its face. It is unlawful to alter or deface any permit, tag, seal or receipt.

E. The director may give written permission for a person or a scientific institution to take a definite number of specified plants in a protected group from areas specified by the department for scientific purposes. In addition the director may give written permission for a person to take specific plants or parts of plants not in the highly safeguarded category from areas specified by the department for salvage or for manufacturing or processing purposes or for the cutting or removal of wood and assess reasonable and proper fees for such taking of the plants or parts of the plants. The director may give written permission for a landowner to transfer specified plants in the protected group from land he owns to another property owned by him, and such permits shall be exempt from fees.

Section 3-909. Shipment of plants; exhibition of permit and certificate of inspection to carrier; sale of highly safeguarded plants.

A. No person or common carrier may transport a plant, or any part of a plant, belonging to the protected group, nor receive or possess a protected native plant for transportation within or

without this state, except for manufactured wood articles, unless the person offering the plant for shipment exhibits to the person or common carrier a valid written permit for the transportation of the plant or part of a plant and has securely and properly attached a valid required native plant tag and seal to the plant. If for transport without the state, the plant shall also bear a certificate of inspection by the department. All protected native plant species or varieties, if not grown in Arizona and imported into this state, shall be declared at an Arizona agricultural inspection station or a district office of the department and proceed to their destination under quarantine orders issued by agents of the department employed at such station or office.

B. Plants of the protected group which are shipped into this state shall be accompanied by all permits, tags and seals required by the exporting state or country.

C. It is unlawful for a person to commercially sell or offer for commercial sale in interstate commerce any highly safeguarded native plant or in the course of interstate commercial activity to deliver, receive, carry, transport or ship by any means any such plant in furtherance of a commercial sale or offer for commercial sale.

D. The seller of export restricted native plants shall make a good faith effort to sell the export restricted native plants within the state prior to export.

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Section 3-910. <u>Compiling information; reports; native plant surveys; investigations; technical advisory board.</u>

A. At the request of any person, including a state or federal agency, and if the person provides the department with a suitable description of the land in question, the director may enter into agreements with any such person to conduct native plant surveys on the applicable private or state land. Unless the survey is limited to the simple determination of whether or not protected species exist on the land, the department may collect fees as reimbursement for the services which are reasonably based on the time factor, vegetation density and acreage. Notwithstanding section 35-148, subsection A, the director shall deposit any monies received under this subsection in the fund established under section 3-913.

B. The director by rule may require written reports from persons engaged in salvaging or harvesting protected native plants as to the location and quantities of protected native plants and their parts which have been salvaged or harvested under this chapter. The director by rule may make the filing of these reports a condition to the issuance or renewal of any permits, tags, seals or receipts provided for in this chapter.

C. The department may conduct investigations of the status of all species of native plants in order to develop information relative to population distribution, habitat needs, limiting factors and other biological data and to determine measures and requirements, including transplantation and propagation, necessary for their conservation or survival. If protected native plants or significant communities of such plants are vulnerable to depletion from their collection or harvest as a commercial resource, the department may collect statistical information and conduct investigations to determine what harvests are sustainable without depleting the plants or plant communities or destroying significant habitat provided by such plants or plant communities.

D. The director may appoint, utilize and contract with a technical advisory board to annually review the numbers of native plants harvested and salvaged in order to assess whether plant species, communities or populations are being depleted, to recommend revisions to the protected categories and to recommend priorities for additional monitoring and scientific study. The board shall consist of representatives of the scientific community, including the botanical and zoological fields, and representatives from the native plant industries, including salvage, revegetation, propagation, landscaping and harvesting concerns.

Section 3-911. Conservation and public education.

A. The department may conserve the highly safeguarded native plants including the use, and encouraging the use, of all methods and procedures that are necessary to bring the highly safeguarded native plants to the point where they are no longer in need of federal protection as endangered or threatened plants or state protection as highly safeguarded native plants. These methods and procedures include all activities associated with scientific resource management such as research, census, law enforcement, habitat protection and maintenance, propagation and transplantation.

B. The department shall encourage commercial businesses engaged in land development or other activities conducted on private land to salvage protected native plants to the greatest extent feasible.

C. The department may produce, and collect reasonable fees for, seminars, courses, pamphlets and other educational programs and publications concerning the effect, intent and interpretation of this chapter, the identification, nature or condition of protected native plants and the feasibility and techniques for their conservation and salvage for presentation and dissemination to:

1. State agencies and political subdivisions, including state and local law enforcement agencies and counties or municipalities which have enacted or consider enacting ordinances preserving protected native plants.

2. Real estate and other commercial businesses engaged in land development and other activities conducted on private land.

3. Landowners and the public at large.

4. Persons or entities that are convicted of violating this chapter or rules, and ordinances adopted pursuant to this chapter and that are ordered by the court to attend educational classes or programs as part of their sentences.

D. Notwithstanding section 35-148, subsection A, the director shall deposit any monies received under this section in the fund established under section 3-913.

Section 3-912. Rules; additional notice requirements.

A. The director shall adopt rules to enforce this chapter pursuant to title 41, chapter 6.

B. In addition to the notice requirements prescribed in title 41, chapter 6, at least thirty days before any hearing at which a new rule or a change in a rule will be considered the department shall send a copy of the notice by first class mail to persons or entities requesting notice pursuant to section 3-904, subsection E.

Section 3-913. Fiscal provisions; fees; Arizona protected native plant fund.

A. The department shall collect nonrefundable fees for issuing permits, tags, seals and receipts under this article, except for scientific purposes, from landowners moving protected plants from one of their properties to another, or from the independent owner of residential property of ten acres or less if no such plants are to be offered for sale.

B. The director shall establish the amount of the fee by rule to reasonably reflect the cost to the department for administering this chapter or to reflect the value of the service, permit, tag, seal or receipt, including at least the following amounts:

1. For cereus giganteus (saguaro), at least three dollars for each plant.

2. For native plants which the director determines to be useful for revegetation and which cannot be salvaged economically at a higher fee, at least twenty-five cents per plant.

3. For all other native plants, at least two dollars for each plant.

4 . For all receipts for live harvest restricted native plants cut or removed for wood, at least one dollar per cord.

5. For a permit for the by-products or fiber of harvest restricted native plants, at least one dollar per ton.

C. The Arizona protected native plant fund is established. All fees, civil penalties and other monies collected under this chapter shall be transferred to the state treasurer for credit to the fund. Ninety per cent of the monies deposited with the state treasurer constitute a separate and permanent fund for use of the director to administer and enforce this chapter, and ten per cent shall be credited to the state general fund.

Section 3-914. Board of supervisors; power to preserve plants.

The board of supervisors of each county is authorized to adopt and enforce ordinances not in conflict with law for the preservation of protected groups of plants.

Section 3-915. Exemptions.

This chapter does not apply to existing canals, laterals, ditches, electrical transmission and distribution facilities, rights-of-way and other facilities, structures or equipment owned, operated, used or otherwise possessed by public service corporations and special districts established under title 48, chapter 11, 12, 17, 18, 19, 21 or 22.

ARTICLE 2. ENFORCEMENT

Section 3-931. Enforcement powers and procedures.

A. An employee, officer or agent of the department may enter in or on any premises or other place, train, vehicle or other means of transportation within or entering this state, if he has reason to believe there is present or on such premises or means of transportation a protected native plant taken, transported or possessed in violation of this chapter.

B. A power granted pursuant to this chapter to any person may be exercised by a deputy, inspector or agent of the authorized person. A person who is authorized to enforce this chapter, including an employee of a state, the United States or an Indian tribe with which cooperative agreements have been made by the director, has powers of a peace officer to enforce this chapter. It is unlawful to interfere with or hinder the actions of a peace officer or an officer or employee of the department in the enforcement of this chapter.

C. In the enforcement of this chapter, a peace officer or an officer or employee of the department may make arrests without warrant for a violation of this chapter which he may witness and may confiscate, or seize by the attachment of a "warning hold" notice, any protected native plant found without a valid and properly affixed tag and seal when required by this chapter, or any plant by-product, fiber or wood from protected native plants found in the possession of a person without a valid receipt if a receipt is required under this chapter. It is unlawful to move or otherwise handle or dispose of any protected plant or part of a plant held under a "warning hold" notice, except with the express written permission of the enforcing officer, and for the specified purpose. Plants, by-products, fiber or wood confiscated under this subsection, if not released to the person from whom they were seized before such time, shall be disposed of by the department or pursuant to court order at the conclusion of the proceedings.

D. Devices, equipment or vehicles used in the illegal taking, transportation, destruction or mutilation of protected native plants may be seized by a peace officer or officer of the department on a temporary basis, not to exceed one working day, to permit the protected native plants or parts of plants involved in the illegal act to be moved to a secure location.

E. An officer, employee or agent of the department who is duly authorized to enforce this chapter, in addition to peace officers, may enforce title 41, chapter 4.1, article 4 and sections 13-3702 and 13-3702.01. Such an officer, employee or agent may make an arrest without warrant for violations witnessed by the officer, employee or agent and may confiscate archaeological and other specimens or objects if unlawfully excavated or collected.

Section 3-932. Violation; classification; penalties.

A. A person commits theft of protected native plants if, without the express consent of the landowner, the person knowingly removes or destroys any protected native plants from private or state land. Theft of protected native plants with a value of:

1. One thousand five hundred dollars or more is a class 4 felony.

2. At least seven hundred fifty dollars but less than one thousand five hundred dollars is a class 5 felony.

3. At least five hundred dollars but less than seven hundred fifty dollars is a class 6 felony.

4. Less than five hundred dollars is a class 1 misdemeanor.

B. A knowing violation of this chapter involving either the

misuse of permits, tags, seals, or receipts, or the collection, salvage, harvest, transportation or possession of protected plants without any required permits, tags, seals or receipts is a class 1 misdemeanor. A subsequent conviction for a violation of this subsection is a class 6 felony.

C. All other violations of this chapter are class 3 misdemeanors except that if a prior conviction is a class 3 misdemeanor, a subsequent conviction is a class 2 misdemeanor, and if a prior conviction is a class 2 misdemeanor, a subsequent conviction is a class 1 misdemeanor.

D. From and after June 30, 1990, on conviction of any violation of this chapter the director may request of the court that the convicted person, or a responsible person from a convicted entity, be ordered to attend educational classes or programs pursuant to section 3-911, subsection C.

. E. On conviction of a violation of this chapter, the director may also request of the court as a provision of the sentence, the revocation of all permits issued to the person convicted and the permittee shall be required to surrender any unused tags or seals or receipts to the division, and the division shall not issue new or additional permits to the permittee for a period of one year from the date of conviction. The director may further request of the court that the sentence include a provision prohibiting a person convicted of a violation of this chapter from engaging in the salvage of protected native plants or acting as agent for any other permittee for a period of up to one year. In considering any such request to revoke or deny permits or prohibit work in salvage or with another permittee the court shall consider:

1. The nature of the offense.

2. The nature of any prior convictions.

3. The overall performance record by the convicted party in terms of its violations of this chapter compared to its efforts to salvage native plants as intended by this chapter.

Section 3-933. Violation; civil penalty.

A. The knowing violation of this chapter or a rule, order or ordinance issued or adopted under this chapter is punishable by a civil penalty in an amount of not more than five thousand dollars.

B. The director may bring an action in superior court in the county in which a violation of this chapter or any rule or order is alleged to have occurred. On the finding of a knowing violation by the defendant in any such action the court may impose the civil penalty provided by this section in an amount as it deems appropriate for each violation.

C. Each day of violation constitutes a separate offense.

Section 3-934. Injunction; violation; civil penalty.

A. The department's legal counsel, on request of a private party or the director, or the county attorney of the county in which a violation of this chapter or any rule or order issued or adopted under sections 3-912 or 3-914 is alleged to have occurred may bring an action in the county requesting the court to enjoin or otherwise restrain the defendant from further violations of this chapter or the rule or order. If the alleged violation occurs through the actions of a state agency, the agency may be made a party defendant.

B. A person who violates an order or injunction issued by a court of competent jurisdiction pursuant to this section, in addition to any other penalty or remedy for contempt of court, shall forfeit and pay to this state a civil penalty of not more than ten thousand" dollars for each violation as the court deems just and proper. For purposes of this section, the superior court in the county issuing any order or injunction retains jurisdiction. The attorney general or legal counsel for the department acting in the name of this state may petition for recovery of civil penalties pursuant to this section.